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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 16, 2001

By Hand Delivery

Mr. Roy J. Stewart, Chief
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 2-C347
Washington, DC 20554

**Re: FM Channel Rule Making
Chillicothe and Ashville, OH
MM Docket No. 99-322
RM-9762**

Dear Mr. Stewart:

I am writing this letter on behalf of Secret Communications II, L.L.C. ("Secret"), the proponent in the above-captioned proceeding. I am also sending a copy of this letter to counsel for the other parties to the proceeding.

The purpose of this letter is to update the Bureau with respect to my letter to you dated November 16, 2000, a copy of which is attached hereto. As the Commission's records show, Secret holds a construction permit to relocate its transmitter site for WKKJ(FM), Chillicothe, OH. See Construction Permit BMPH-990820IF. In my letter, I advised you that Secret's plan to build out its facilities under the construction permit requires prior zoning approval. I also advised you that the same zoning authorities had already turned down a radio group owner which has sought to build a radio tower in the same general area and that the group owner had appealed the denial. The court's decision on the zoning matter is still awaited. If the court rules in favor of the radio group owner, this would likely mean that the owner, as well as Secret, could proceed with construction without the need for any zoning approval. Depending upon the language contained in a favorable court decision in that case, as well as the risk of further appeals, it would be Secret's intention to begin construction at once.

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In the meantime, the local zoning authorities have told Secret's local counsel that they have decided to sit on Secret's zoning application until the court acts. Secret's counsel has informed the local authorities that such inaction would be inappropriate. Given that the time period under its construction permit continues to run, Secret may be forced to go to court to require the zoning authorities to act. It is hoped that the local zoning authorities will soon reconsider their position, thereby eliminating the need for Secret to go to court to force them to act.

Secret will continue to keep you apprised of developments and requests the Bureau, in the interim, to continue to defer action in this proceeding.

Very truly yours,



Richard R. Zaragoza

Enclosure

cc: John A. Karousos, Chief
Gene A. Bechtel, Esq.
Margaret L. Tobey, Esq.

Document #: 1065459 v.1

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November 16, 2000

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Mr. Roy J. Stewart
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 2-C347
Washington, DC 30554

Re: **FM Channel Rule Making
Chillicothe and Ashville, OH
MM Docket No. 99-322
RM-9762**

Dear Mr. Stewart:

I am writing this letter on behalf of Secret Communications II, L.L.C. ("Secret"), a party to the above-captioned proceeding. I am copying the other parties to the proceeding. The purpose of this letter to update the Bureau and to suggest that the Bureau defer action in the proceeding for the reasons set forth herein.

The Mass Media Bureau released its Notice of Proposed Rule Making in this proceeding on October 29, 1999. Comments in support of the NPRM were filed by Secret on December 17, 1999. Separate joint Comments in opposition to the NPRM were filed on December 20, 1999 by three licensees of radio stations operating in the Columbus, Ohio radio market (the "Opposing Stations"). Secret filed Reply Comments on January 4, 2000.

In their comments on the NPRM, the Opposing Stations asserted that Secret had not begun to build the antenna structure that was contemplated under construction permit FCC File No. BPH-981201IA. Secret explained that it was awaiting Commission action on its application for modification of that construction permit. See FCC File No. BMPH-990820IF. That application was granted on April 12, 2000.

Mr. Roy J. Stewart
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Secret, however, must await action on zoning clearance. The local authorities have already turned down Clear Channel, a radio station group owner, in its own efforts to build a radio tower in the same general area. Clear Channel appealed to local court but lost. Clear Channel has now taken its case to appeals court. The Clear Channel case will undoubtedly impact Secret's own efforts, but it cannot be predicted at this time what the final result will be or when such result will be reached. This situation continues to cause Secret considerable frustration given that it has already expended a substantial amount of time and effort to place itself in a position to build its new radio tower and antenna to improve its service as soon as possible.

The NPRM's proposal to change the community of license for WKKJ(FM) from Chillicothe to Ashville, Ohio is justified on the facts and the law. If, however, the fact that Secret has been prevented, to date, from building its tower/antenna facility is being weighed by the Commission as a factor in the overall assessment of the case, Secret respectfully requests the Bureau to defer action in this proceeding until after the first of the New Year while Secret considers its options so that it can finally get its improved station facilities on the air as soon as possible. We will keep you apprised of developments.

Very truly yours,



Richard R. Zaragoza

cc: John A. Karousos, Chief
Ann C. Farhat, Esq.
Margaret L. Tobey, Esq.